

REMARKS/COMMENTS

Applicant thanks the Examiner for her comments and earlier consideration.

Claims 6-11 and 13-16 are currently pending and stand initially rejected.

Claims 6 and 10 currently stand amended.

The objection to claim 10 has been noted. Claim 10 is amended to correct the spelling of "square".

Claim 6 has been amended to more particularly point out and distinctly claim subject matter applicant regards as her invention. No amendments have been made to the dependent claims 7-9, 11, 13 and 14. Likewise, no amendments have been made to independent claims 15 and 16.

Reconsideration of the 35 U.S.C.103(a) rejection of claims 6-11 and 13-16 as being unpatentable over Brown et al 4,547,903 in view of Milani 5,875,488 is requested in view of the discussions below and the above amendments. These claims are now believed to be patentable over this prior art for reasons as are discussed next below.

Claim 6 now recites (and hence requires as a limitation) that the band comprises a substantially continuous one-piece compact body made from a soft elastomeric material, and that the body circumference has a relatively elongated relatively narrow opening sized such to enable a wearer's pony tail to be easily pulled therethrough and retained securely without kinking of the wearer's hair. That the band is compact and made of soft material is disclosed in the description at page 3, lines 21, 22 and page 5, lines 19, 20 and is well supported.

In contrast to the applied references, making the band as a soft material one-piece

continuous component enables readily compacting the entire unit and storing the item in a severely restricted space in, e.g., ladies purse. That the band circumference has a relatively elongated relatively narrow opening sized to enable ponytail pass through without kinking user's hair obviates undesirable hair mishandling. Additionally, it must be recognized that the unique properties of the present invention allow it to remain compacted, in a twisted form, in storage for long periods of time and to immediately retain it's pre-storage shape upon removal so as to prevent or minimize the kinking noted above. Neither of the applied references support these benefits, ready compaction to such an extremely small size for transport, and a return from storage without damage – ready for re-use.

Brown et al deals with removably attaching a sweat band to a visor member or a cap employed to absorb a wearer's sweat as well as to shield the wearer from bright sunlight. The reference has nothing to do with, and contains no description about, managing or handling of a wearer's hair. Milani discloses a visor device with a ponytail pull through device affixed at the rear of a sweat band component, the ponytail pull through device being a pair of elastic bands affixed to terminal ends of a visor support side portions extending rearwardly from a support front portion.

The position of the Examiner is that it would be obvious for a person having ordinary skill in the art to modify Brown et al by employing a sweat band slit as disclosed in Milani in the Brown et al device, and this position is respectfully traversed. Reconsideration is requested. There is no suggestion contained in Brown et al that it could be modified in any way to enable a ponytail pass through or in any way employed for hair control function. Nor would a person skilled in the art think to so modify either Brown or Milani to achieve the present invention since this modification would destroy the principal benefits of each reference argued in the references themselves. Absent inappropriate hindsight deconstruction of the present application the references themselves contain nothing to aid the Examiner's suggestions to modify. Hence it is proposed that a person having ordinary skill in the art would dismiss Brown et al out of hand as ineffective to pursing the goal of the present invention. Assuming *arguendo*, that a person of ordinary skill did look at Brown et al, he would conclude that there is no need to provide an

opening in any sweat band in the reference Figs. 2 and 4 sweat bands inasmuch as the Fig. 4 cap crown opening would allow a ponytail to pass through. It is proposed that the Fig. 3 sweat band with straps and buckles would be seen as possessing extreme hair-tangling-potential.

Milani does not disclose or suggest the claim 6 feature that the band body circumference has a relatively elongated relatively narrow opening sized such to enable the ponytail to be pulled therethrough and retained without kinking the wearer's hair. The Milani elastic straps length and height dimensions are such as to produce a pass through opening which gathers the ponytail hairs is a tight rounded mass which easily can give rise to kinking of hair and fails to support a hair style that covers the user's neck. As can be see in applicant's drawing figures, the claimed relatively elongated relatively narrow opening in the sweat band readily distributes the hair-mass over a longer, thinner hair spread length thereby deterring kinking and allowing a different styling while preserving user-options.

For the reasons stated above, claim is patentable over the teaching of Brown et al taken with that of Milani and should be allowed.

Claims 7-11 and 13, 14 each depend from and relate back to the allowable subject matter of claim 6 and, accordingly, these claims should be allowed as well.

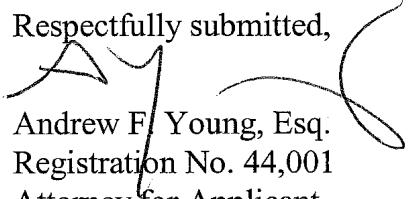
Applicant respectfully traverses the basis of the rejections of claims 15 and 16. Both claims literally require that the cylindrical band be positioned around the neck of the wearer as a first step in carrying out the method of wearing the multi-use accessory. The claimed band easily can be pulled over a wearer's head to position it around a wearer's neck. Such is not the case with either of the Brown et al and Milani devices since the visor structure interferes with carrying out the specific claimed manipulations of claims 15 and 16. Reconsideration is respectfully requested.

For the reasons noted above, the present application is now believed to be in condition for allowance and notice to that effect is earnestly solicited. If the examiner believes a telephone

conference would be of value in reaching issue or allowance herein, the Examiner is kindly requested to call undersigned counsel at the number listed below to achieve allowability.

While no fees are believed due, other than those enclosed herewith, the Commissioner is hereby authorized to access Deposit Account No. 10-0100 to access any additional fee required in this matter, or to credit any over payment.

Respectfully submitted,


Andrew F. Young, Esq.
Registration No. 44,001
Attorney for Applicant

Lackenbach Siegel, LLP
One Chase Road
Scarsdale, NY 10583
914-723-4300
Dated: May 21, 2007